

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 24-cv-22523-KMM

KENNY ORTEGA,

Plaintiff,

v.

MIAMI DADE COUNTY and
JOSEPH DIAZ, individually,

Defendants.

**DEFENDANT JOSEPH DIAZ' AMENDED AND UNOPPOSED
MOTION TO JOIN MIAMI-DADE COUNTY'S [DE 31] RESPONSE
TO PLAINTIFF'S [DE 26] MOTION TO LIFT STAY**

COMES NOW Defendant, JOSEPH DIAZ (Officer Diaz), by and through his undersigned attorney, and joins in Miami-Dade County's [DE 31] Response to Plaintiff's [DE 26] Motion to Lift Stay and respectfully requests that the Court stay these proceedings pending the conclusion of the criminal case pending against Officer Diaz in Miami-Dade County Circuit Court (Case No.: 2022-CF-000506) in connection with his actions involving Plaintiff's arrest, which form the basis for Plaintiff's Complaint; and in support thereof, states as follows:

1. Plaintiff filed its Complaint against Miami-Dade County (the County) and Officer Diaz on July 2, 2024 [DE 1], alleging violations of Plaintiff's state and

federal rights during Plaintiff's arrest by Officer Diaz on July 25, 2020, while Officer Diaz was performing his duties as a Police Officer with the Miami-Dade County Police Department (MDPD).

2. Plaintiff served its Summons and Complaint on the County on July 17, 2024 (See [DE 7]) and on Officer Diaz on February 11, 2025 (See [DE 23]).

3. On August 5, 2024, the County filed its Motion to Stay Proceedings and Administratively Close Case [DE 11], arguing - *inter alia* – that this case should be stayed because there is an open and active criminal case pending against Officer Diaz relating to the arrest at issue in this case, so the State Attorney's Office's (SAO) file is protected from disclosure under state and federal laws, such that, all reports, documents, and information created in connection with that investigation are protected from disclosure and thus, no party here will have access to said documents or information until the criminal proceeding concludes.

4. The County argued further that it is thereby precluded from accessing evidence that is critical to its defense in this civil action.

5. The County then set forth extensive argument in its Motion to Stay, etc., supporting the position that District courts have broad discretion in deciding whether to stay proceedings, incidental to their powers to control and efficiently

manage their dockets; that where there is an open criminal proceeding or an internal affairs investigation, courts in this District have routinely granted temporary motions to stay; that the balance of the Parties' and the Court's interests favors a stay of these proceedings; and that Plaintiff would not be prejudiced if said Motion to Stay was granted because any relief to which Plaintiff would be entitled at the end of this case would still be available after the stay expired.

6. This Honorable Court granted the County's Motion to Stay (See [DE 13] PAPERLESS ORDER); subsequently extended the stay until February 7, 2025 (See [DE 20] PAPERLESS ORDER), and required that "the Parties shall file a status report proposing further proceedings and seeking such other relief, such as a motion to extend the stay or to dismiss any claims as moot, on or before February 7, 2025."

7. The County filed a Status Report [DE 21] on February 7, 2025, requesting that the Court extend the stay in this case until the disposition of Officer Diaz' criminal case.

8. On February 28, 2025, Plaintiff filed – in essence – a Motion to Lift the Stay (See [De 22], [DE 25] and [DE 26]).

9. On March 5, 2025, the County filed its Response [DE 31] to Plaintiff's [DE 26] Motion to Lift Stay, arguing against the lifting of the stay,

adding that Plaintiff's Motion "regurgitates the same arguments this Court has already heard and rejected." ([DE 31], Pg 1.). The County then goes on to argue that so long as a criminal case remains open against Officer Diaz, the SAO file on the very arrest at issue remains statutorily exempt from disclosure; that, therefore, no party can access those documents and that, if the stay were to be lifted, the County would be forced to defend itself without having access to files relating to the very arrest at issue in this lawsuit. (See [DE 31], Pg 2.).

10. The foregoing facts and arguments set forth by the County in its Response to Plaintiff's [DE 26] Motion to Lift Stay are equally applicable to Officer Diaz' position as to the stay of these proceedings.

11. Therefore, to avoid repetition and to promote judicial economy, Officer Diaz, hereby incorporates and restates all of the arguments raised in the County's [DE 31] Response to Plaintiff's [DE 26] Motion to Lift Stay as though fully set forth herein, including the request that the Court stay these proceedings until the conclusion of the Criminal case against Officer Diaz.

CERTIFICATE OF GOOD FAITH CONFERENCE

12. Subsequent to the filing of Officer Diaz' [DE 32] Motion to Join Miami-Dade County's [DE 31] Response to [DE 26] Motion to Lift Stay, counsel for Plaintiff emailed the undersigned, advising that: "*Plaintiff does not oppose*

granting of leave for Defendant Diaz to join the County's previously filed Opposition [ECF 31], but maintains his position stated in his Motion To Lift Stay at issue regarding all opposition by Defendants."

WHEREFORE, Defendant, JOSEPH DIAZ, respectfully requests that this Honorable Court enter its Order granting the instant Amended And Unopposed Motion to Join Miami-Dade County's [DE 31] Response to [DE 26] Motion to Lift Stay and extending the stay in this case until the disposition of Officer Diaz' criminal case, for the foregoing reasons.

DATED: March 12, 2025.

Respectfully submitted,

Donet, McMillan & Trontz, P.A.

By: /s/ David M. Trontz

David M. Trontz, Esq.

Florida Bar No.: 948111

[Certificate of Service on next page]

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 12, 2025, undersigned counsel electronically filed the foregoing Defendant Joseph Diaz' Amended and Unopposed Motion to Join Miami-Dade County's [DE 31] Response to [DE 26] Motion to Lift Stay with the Clerk of the Court using CM/ECF, which will send a notice of electronic filing (NEF) to all counsel of record registered therein.

Donet, McMillan & Trontz, P.A.

By: /s/ David M. Trontz

David M. Trontz, Esq.

Florida Bar No.: 948111

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